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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,061	03/02/2004	Scott D'Avanzo	5611.00017	4209

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,061

Applicant(s)

D'AVANZO, SCOTT

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 7-25 and 31-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species:

Species S1a: claims 2-6 and 27-30.

Species S1b: claims 7-12 and 31-36.

Species S1c: claims 13-16 and 37-40.

Species S1d: claims 17-20 and 41-44.

Species S1e: claims 21 and 24.

Species S1f: claim 22.

Species S1g: claims 23 and 25.

The species are independent or distinct because each of the embodiments presented in Species S1a through Species S1g has different effect and is separately usable.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 26 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with the applicant's attorney, Mr. Rob Phillips, on June 22, 2006 a provisional election was made without traverse to prosecute the invention of Species S1a, claims 2-6 and 27-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-25 and 31-44 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seelig et al. (6,609,972).

Referring to claims 1 and 26, Seelig et al. teaches a gaming machine (and method having steps thereto) for playing comprising: a mechanical component (i.e., the combination of indicator 44 attaching to worm gear 52, Fig.2; 4:5-12), said mechanical component having a dynamic member (indicator 44) for facilitating the indication of a display device (e.g., 46, 48); and wherein upon activation of the mechanical component said dynamic member (indicator 44) causes the display device to be identified (e.g., pointing to or identifying the displays 46 and 48), said display device (46, 48) displaying a randomly generated gaming machine symbol related to a gaming machine award (Fig.1; 3:55-4:18). Note that, the final prize result of Seelig et al. is concealed prior to the activation of the mechanical component and being revealed after the activation of the mechanical component (4:19-5:8). Seelig et al. does not explicitly teach the mechanical component concealing the display device, and the dynamic member causing the display device to be revealed upon the activation of the mechanical component. This feature, however, is an obvious design choice since mechanically concealing the display (having a symbol related to an award) (as claimed by the applicant) compared to displaying a concealed symbol (related to an award) electrically or graphically (as taught by Seelig et al.) would bring similar results to the operation of the game, i.e., both Seelig et al.'s and applicant's approaches are to conceal and reveal the symbol related to the award in respond to the bonus game activation. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was

made to modify the system of Seelig et al. by providing an alternative method of mechanically concealing and revealing the symbol related to a gaming machine award to enhance the reality of the game, thus attract more players and increase game revenue.

Referring to claims 2, 3, 27, and 28, Seelig et al. teaches the mechanical component (i.e., the combination of indicator 44 attaching to worm gear 52, Fig.2; 4:5-12) comprises one or more hands (e.g., hands of the alien pilot) extending from said gaming machine; and dynamic member comprises one or more arms joined to said hands (4:1-4).

Referring to claims 4 and 29, Seelig et al. teaches a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award, i.e., player is given the opportunity to select either the left bonus prize or the right bonus prize (4:19-31).

Referring to claims 5 and 30, *wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device*, this limitation is obvious in view of Seelig et al.'s teaching of the bonus display (12) displaying the bonus prize won by the player upon selection of the right or left bonus prize (4:32-35). Further, regarding the hand opens to reveal the display device, this feature is regarded as obvious design choice as set forth above regarding claims 1 and 16 because using the hand to conceal the display (having a symbol related to an award) (as claimed by the applicant) compared to pointing to the display having a graphically concealed symbol (related to an award) (as taught by Seelig et al.) would bring similar results to the operation of the

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game, i.e., both Seelig et al.'s and applicant's approaches are to conceal and reveal the symbol related to the award in respond to the bonus game activation. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the prize display the mechanical indicator of Seelig et al. by mechanically concealing and revealing the symbol related to a gaming machine award to enhance the reality of the bonus indicator, thus make the game more interesting to the players and increase game plays.

Referring to claim 6, wherein the one or more hands support a watch having a display, this is a design choice since placing a watch on one or more hands as claimed does not bring unexpected results to the outcome of game. Note that, the watch as claimed is considered as a decorative device since it does not bear any function of the game.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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